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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
09/185,994	11/04/98	DEVANEY	T 98-01205

IM62/0828

EXAMINER

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MCNEIL, J

ART UNIT 1775

PAPER NUMBER

10

**DATE MAILED:** 08/28/00

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**

<b>Office Action Summary</b>	Application No. 09/185,994	Applicant(s) Devaney et al
	Examiner Jennifer McNeil	Group Art Unit 1775

Responsive to communication(s) filed on Jun 5, 2000

This action is FINAL.

Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle* 35 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

#### Disposition of Claim

Claim(s) 1-9, 11, and 18-22 is/are pending in the application

Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration

Claim(s) 1, 2, 5-7, 11, 18, and 19 is/are allowed.

Claim(s) 3, 4, 8, 9, and 20-22 is/are rejected.

Claim(s) \_\_\_\_\_ is/are objected to.

Claims \_\_\_\_\_ are subject to restriction or election requirement.

#### Application Papers

See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

The proposed drawing correction, filed on \_\_\_\_\_ is  approved  disapproved.

The specification is objected to by the Examiner.

The oath or declaration is objected to by the Examiner.

#### Priority under 35 U.S.C. § 119

Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

All  Some\*  None of the CERTIFIED copies of the priority documents have been

received.

received in Application No. (Series Code/Serial Number) \_\_\_\_\_.

received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_

Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

#### Attachment(s)

Notice of References Cited, PTO-892

Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_

Interview Summary, PTO-413

Notice of Draftsperson's Patent Drawing Review, PTO-948

Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

1. Claims 3, 4, 8, 9, and 20-22 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claims 4, 8, 20, and 22 recite the phrase "chamois-like" in reference to the fabric used to make up part of the device. Chamois-like does not clearly define the cloth to be used in the device. Applicant refers to chamois in the specification as being "skin from a chamois (goat like antelope) or sheepskin." (Page 8, lines 10-11) and including other animal skin products intended to be within the meaning of chamois (page 8, lines 9-11). The term "chamois" has been clearly defined, but "chamois-like" has not. By using the term "chamois-like" does applicant intend to claim a synthetic substitute? Claims 3, 9, and 21 refer to the material used to make the device as being produced by Hutchings and Harding LDT. The material source of the device is not given patentable weight and renders the claims indefinite as it is similar to a trade name in that it does not fully describe the material. The enclosure provided by applicant regarding the Hutchings and Harding product do not disclose any optical grade fabrics nor any treated for optical grade use. The fabrics described are geared toward use on vehicles.

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The company appears to make more than one type of chamois and the type which is used in the applicant's invention has not been clearly disclosed.

***Response to Arguments***

2. Applicant's arguments filed June 5, 2000 have been fully considered but they are not persuasive. Applicant's arguments regarding use of the term "chamois-like" include a reference to the specification which describe chamois as being leather, and that previous patents have used the term. The argument that others have used the term in previous patents is of no merit. The specification and definition of chamois define it as leather. No clear definition of "chamois-like" has been included and if applicant intends to claim synthetics, the claims should reflect as such. Regarding the leather produced by Hutchings and Harding LDT, applicant has stated the material is a trade secret. The use of the company name in the claim language is tantamount to trademarks and is indefinite. The information enclosed gives no information regarding an optical grade chamois material or the treatment of a material to achieve optical grade fabric.

***Allowable Subject Matter***

3. Claims 1, 2, 5-7, 11, 18, and 19 are allowed.

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*Conclusion*

4. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jennifer McNeil whose telephone number is (703) 305-0553. The examiner can normally be reached on Monday through Friday from 8:30 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Deborah Jones, can be reached at (703) 308-3822.

When filing a fax in Group 1700, please indicate in the Header (upper right) "Official" for papers that are to be entered into the file, and "Unofficial" for draft documents and other communications with the PTO that are not for entry into the file of this application. This will

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expedite processing of your papers. The fax number for this Group are (703) 305-3599 for "Official" faxes and (703) 3055436 for "Unofficial" faxes.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist, whose telephone number is (703) 308-0661.



Jennifer McNeil  
Patent Examiner  
AU 1775



DEBORAH JONES  
SUPERVISORY PATENT EXAMINER